

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7337 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KAPILKUMAR S TRIVEDI

Versus

COLLECTOR OF PANCHAMAHLIS

Appearance:

MR RN SHAH, Advocate, for Petitioner.
MRS. VIDHATRIBEN PAREKH, Asstt. Govt. Pleader for
respondent no.1.
MR P. R JOSHI, for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 29/10/96

ORAL JUDGEMENT

Rule, returnable today. Learned Asstt.
Government Pleader Mrs. Parekh waives service of rule on
behalf of the respondent no.1. Learned Advocate Mr.
P.R. Joshi, waives service of rule on behalf of the
respondent no.2.

2. The petitioner herein was serving as the Field Officer and was appointed on temporary basis as Superior Field Worker. Under the Resolution dated 15-3-1996, the respondent no.2 resolved to appointment the petitioner as Superior Field Worker. The said resolution was taken in suo motu revision by the Collector under Section 258 of the Gujarat Municipalities Act, 1963. The Collector considering the relevant provisions of the Recruitment Rules held that the appointment of the petitioner to the post of Superior Field Worker was contrary to the relevant Rules and quashed and set aside the above referred Resolution dated 15-3-1996.

3. Learned Advocate Mr. Shah appears for the petitioner and contends that the petitioner's appointment as Superior Field Worker is in consonance with the relevant Recruitment Rules. He has also contended that on account of the impugned order of the Collector. the petitioner's appointment as the Superior Field Worker has been adversely affected and the impugned order could not have been made without affording an opportunity of hearing to the petitioner.

4. Learned Asstt. Govt. Pleader Mrs. Parekh supports the order of the Collector and contends that the resolution dated 15-3-1996 passed by the respondent no.2 is in contravention of the relevant recruitment Rules. She, however, does not dispute that the petitioner was not afforded opportunity of hearing before the Collector.

5. In that view of the matter, this petition is allowed. The order made by the Collector dated 31-8-1996 annexed to the petition is quashed and set aside. It is, however, clarified that the Collector may make necessary order after issuing show cause notice to the petitioner as well as the respondent no.2. This order is made without prejudice to the rights and contentions of either of the parties to this petition.

6. The petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.